

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

**UNITED STATES OF AMERICA, and)
STATE OF MISSOURI)**

Plaintiffs,)

v.)

**THE DOE RUN RESOURCES)
CORPORATION; THE DOE RUN)
RESOURCES CORPORTION d/b/a THE)
DOE RUN COMPANY; and THE)
BUICK RESOURCE RECYCLING)
FACILITY, LLC)**

Defendants.)

Civil Action No. 4:10-cv-01895 JCH

**First Amendment to the
Consent Decree**

FIRST AMENDMENT TO THE CONSENT DECREE

WHEREAS, Plaintiffs, United States of America on behalf of the United States Environmental Protection Agency and the State of Missouri at the relation of Chris Koster, Attorney General, and the Missouri Department of Natural Resources, and Defendants, The Doe Run Resources Corporation; The Doe Run Resources Corporation d/b/a The Doe Run Company; and The Buick Resource Recycling Facility (collectively “Doe Run”), lodged a Consent Decree dated October 8, 2010, which was entered by the Court on December 21, 2011 (the “Consent Decree”) in the Eastern District of Missouri;

WHEREAS, pursuant to Paragraph 252 of the Consent Decree, the parties may make a material modification to the Consent Decree by signed written agreement;

WHEREAS, an electrical fire at the Herculaneum Lead Smelter Facility (the “Facility”) in March 2012 necessitated changes to the operation and maintenance schedule at the Facility. As a result, the Facility (1) was unable to operate in much of March and effectively all of April of 2012; (2) operated through July 2012 instead of being shut down for maintenance as scheduled; and, (3) operated at higher than normal monthly production rates for the second half of fiscal year 2012;

WHEREAS, operating at higher production rates through the hot summer months in 2012 gave rise to increased sulfur dioxide (SO₂) emissions, although still within the limitations of the Consent Decree;

WHEREAS, the Consent Decree contains a number of 12-month rolling limits, which, due to their nature, result in a current year’s operating schedule being restricted by the previous year’s schedule;

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WHEREAS, to comply with the Consent Decree 12-month rolling limits for Refined Lead Metal Production and SO₂ emissions would effectively require the Facility to shutdown during part of March and potentially all of April 2013 and operate in July 2013, as it did in 2012;

WHEREAS, requiring the Facility to more closely follow its 2011 schedule, i.e., operating through March and April, shutting down to perform maintenance during part of July, and maintaining more consistent monthly production rates, will reduce the overall sulfur dioxide emissions from the Facility for 2013 and result in a net benefit to the environment;

WHEREAS, the change in schedule and temporary change in production cap authorized herein will not result in an increase in the total amount of Refined Lead Metal Production at the Facility for 2013;

WHEREAS, the United States, the State of Missouri, and Doe Run (the “Parties”) now voluntarily and jointly seek to modify Section V, Paragraphs 19 and 20 of the Consent Decree as set forth herein (“First Amendment”);

WHEREAS, the Lodging Date of this First Amendment shall be the date on which the United States initially files this First Amendment with the Court prior to commencement of the required public comment period;

WHEREAS, the Effective Date of this First Amendment shall be the date upon which this First Amendment is entered by the Court or the motion to enter this First Amendment is granted, whichever occurs first, as recorded on the Court’s docket;

WHEREAS, in accordance with Paragraph 257 of the Consent Decree, Doe Run is also consenting to entry of this First Amendment without further notice and agrees not to withdraw from or oppose entry of this First Amendment by the Court or to challenge any provision of the

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First Amendment, unless the United States has notified Doe Run in writing that it no longer supports entry of the First Amendment;

WHEREAS, in accordance with Paragraph 258 of the Consent Decree, each undersigned representative of Doe Run, the State of Missouri, and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice certifies that he or she is fully authorized to enter into the terms and conditions of this First Amendment and to execute and legally bind the Party he or she represents to this First Amendment; and,

WHEREAS, the Parties recognize, and the Court by entering this First Amendment finds, that this First Amendment has been negotiated at arm's length and in good faith and that this First Amendment is fair, reasonable, and in the public interest.

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NOW, THEREFORE, before the taking of any testimony, without the adjudication or admission of any issue of fact or law, and with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED, and DECREED as follows:

MODIFIED AND ADDED PROVISIONS

1. The Consent Decree entered by the Court on December 21, 2011 shall remain unchanged and in full force and effect in accordance with its terms except that certain paragraphs of the Consent Decree are modified as specifically set forth in Paragraphs 4 and 5 below.
2. If the Court issues an order denying this First Amendment or the Motion to Enter this First Amendment, all terms in the original Consent Decree are in full force and effect as of the date such order is signed by Court;
3. The Parties agree that from the Lodging Date until the Effective Date of this First Amendment (“Interim Period”) or the date upon which the Court issues an order denying this First Amendment or Motion to Enter, Doe Run shall be in full compliance with all limits and terms set forth in modified Paragraphs 19, 19a, 20c, and 20e. Doe Run’s full compliance with these limits and terms shall not be considered a violation of the original Consent Decree, as long as Doe Run is also in compliance with all terms and conditions in Section V.A. of the original Consent Decree that remain unchanged by this First Amendment. Due to the nature of 12-month rolling limits, for the end of the month in which the Court issues an order denying this First Amendment or Motion to Enter, compliance with the 12-month rolling limits will be measured against the limits in modified paragraphs 19 and 20.c. Any violation of the First Amendment shall subject Doe Run to stipulated penalties pursuant to Section XVII (Stipulated Penalties) of the Consent Decree for such violations.

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4. Section V (Compliance Requirements: Clean Air Act) of the Consent Decree shall be modified as follows:

Paragraph 19 shall now read (modifications are double underlined):

“19. From the Lodging Date of this Consent Decree, Doe Run shall achieve, maintain and comply with the following production limit across all of its operations in the United States of America, with the exception of the Demonstration Plant at the West Fork Unit Facility, until cessation of operation of the Herculaneum Lead Smelter occurs in accordance with Paragraph 14: From the first Day of the Month following the Lodging Date, Refined Lead Metal Production shall not exceed a 12-Month Rolling Tonnage of 130,000 (except that for the periods ending April 30, 2013, May 31, 2013 and June 30, 2013, Refined Lead Metal Production shall not exceed a 12-Month Rolling Tonnage of 139,126, 137,308 and 136,193 respectively). To demonstrate compliance with this limit, Doe Run shall provide monthly logs that track refined lead metal produced on a daily basis, using the spreadsheet attached hereto as Appendix A, unless and until an alternative spreadsheet is approved by Plaintiffs, as well as monthly logs that track refined lead metal produced on a daily basis across Doe Run’s operations in the United States of America, with the exception of the Demonstration Plant at the West Fork Unit Facility, as a part of the semi-annual status report required in Section XVI (Reporting Requirements).”

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New Paragraph 19.a. shall be added:

“The total Refined Lead Metal Production for calendar year 2013, with the exception of the Demonstration Plant at the West Fork Unit Facility, as calculated by summing Refined Lead Metal Production between January 1, 2013 and December 31, 2013, shall not exceed 130,000 tons.”

Paragraph 20.c. shall now read (modifications are double underlined):

“c. SO₂ Emission Limits at the Herculaneum Lead Smelter: By no later than the Lodging Date of this Consent Decree, Doe Run shall comply with the following SO₂ emissions limits at all times:

- i. SO₂ Short-term Limit: 223,700 pounds of SO₂; and
- ii. SO₂ Mass Cap: 18,501 tons of SO₂ except as follows:

<u>FOR THE PERIOD ENDING</u>	<u>SO₂ MASS CAP SHALL BE</u>
<u>April 30, 2013</u>	<u>19,882 tons of SO₂</u>
<u>May 31, 2013</u>	<u>19,482 tons of SO₂</u>
<u>June 30, 2013</u>	<u>18,894 tons of SO₂</u>
<u>July 31, 2013</u>	<u>18,501 tons of SO₂</u>
<u>August 31, 2013</u>	<u>17,264 tons of SO₂</u>
<u>September 30, 2013</u>	<u>17,264 tons of SO₂</u>
<u>October 31, 2013</u>	<u>17,264 tons of SO₂</u>
<u>November 30, 2013</u>	<u>17,264 tons of SO₂</u>
<u>December 31, 2013</u>	<u>17,264 tons of SO₂</u>


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iii. For calendar year 2013, Doe Run shall reduce the amount of actual SO₂ emissions from the Facility by a total of at least 625 tons from the baseline amount of SO₂ emissions that were emitted from the Facility during calendar year 2012. The amount of SO₂ emissions from the Facility for calendar year 2013 shall be calculated by summing all SO₂ emissions from normal operations, Startup, Shutdown, and Malfunction of the Sintering Machine and Sulfuric Acid Plant between January 1, 2013 and December 31, 2013. The baseline amount of SO₂ emissions from the Facility during calendar year 2012 shall be calculated by summing all SO₂ emissions from normal operations, Startup, Shutdown, and Malfunction of the Sintering Machine and Sulfuric Acid Plant between January 1, 2012 and December 31, 2012."

5. **New Paragraph 20.e. shall be added:**

"e. During the month of July 2013, Doe Run shall conduct its scheduled shutdown for maintenance at the Facility unless an extended shutdown at the Facility of more than two weeks is required prior to July 2013 due to unforeseen circumstances."

Dated and entered this 6th day of December, 2013.


UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF MISSOURI